

Serial No. 09/748,705

Docket No.: KCC-15,365.1

REMARKS

Applicants' undersigned attorney thanks the Examiner for his comments. Applicants respectfully request reconsideration of this patent application, particularly in view of the following remarks. Currently, Claims 1-42 are pending.

Amendment to the Claims

Claims 1-42 have been examined, with no claims being allowed. Claim 27 has been amended.

Applicants have amended Claim 27 to include the limitation that the first portion of the first component and the first surface of the flat portion of the second component each include a hook backing with a plurality of hooks extending from it or a loop backing with a plurality of loops extending from it. Support for this amendment is provided throughout the specification, and in Claims 28 and 30.

No new matter has been added by this Amendment. No additional fee is due for this Amendment because the number of independent claims remains unchanged and the total number of claims also remains unchanged.

Claim Rejections - 35 U.S.C. §102

The rejection of Claims 1-11, 13, 27-40, and 42 under 35 U.S.C. §102(b) as being anticipated by Van Heusen (U.S. Patent 1,638,073) is respectfully traversed.

Van Heusen discloses a two-part fastening device wherein a projecting element having a relatively rough contact surface is configured to fit into a receiving element having a contact surface that engages with the contact surface of the projecting element. The projecting element and receiving element both have contact filaments projecting from their respective contact surfaces.

For a reference to anticipate a claim, the reference must disclose each and every element or limitation of the claim. Van Heusen does not disclose each and every element or limitation of Claims 1 and 27. Applicants' invention as recited in independent Claims 1 and 27 requires that the fastening system include a plurality of hooks and a plurality of loops that can be releasably engaged with one another.

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Van Heusen fails to disclose or suggest any type of loop material. Instead, Van Heusen discloses "filaments." As is well known to those skilled in the art, i.e., the textile industry, filaments are quite different from loops. Filaments are not doubled over, as loops are. Instead, filaments have two distinct ends. When one end of a filament is attached to a backing, the opposite end extends away from the backing. Van Heusen discloses velvet as one example of material that includes filaments in accordance with the invention. Velvet, and other materials having filaments extending from a substrate, looks, feels, is manufactured, and performs differently than loop material.

For at least the reasons presented above, Applicants respectfully submit that amended Claims 1 and 27 are not anticipated by Van Heusen. Because Claims 2-11 and 13 depend from amended Claim 1, and Claims 28-40 and 42 depend from amended Claim 27, these claims are also not anticipated by Van Heusen. Thus, Applicants respectfully request withdrawal of this rejection.

Claim Rejections - 35 U.S.C. §103

A. Van Heusen

The rejection of Claims 14-24 and 26 under 35 U.S.C. §103(a) as being unpatentable over Van Heusen is respectfully traversed.

As explained above, Van Heusen discloses a two-part fastening device including a projecting element and a receiving element both having contact filaments projecting from their respective surfaces. As known to those skilled in the art, filaments are completely different than loops. Van Heusen fails to disclose or suggest the inclusion of any loop material in a fastening device.

For at least the reasons given above, Applicants respectfully submit that the teachings of Van Heusen fail to disclose or suggest Applicants' claimed invention. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

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B. Van Heusen in view of Lacoursiere et al.

The rejection of Claims 12, 25, and 41 under 35 U.S.C. §103(a) as being unpatentable over Van Heusen in view of Lacoursiere et al. (U.S. Patent 5,775,967, hereinafter "Lacoursiere") is respectfully traversed.

As explained above, Van Heusen discloses a two-part fastening device including a projecting element and a receiving element both having contact filaments projecting from their respective surfaces. As known to those skilled in the art, filaments are completely different than loops. Van Heusen fails to disclose or suggest the inclusion of any loop material in a fastening device.

Lacoursiere discloses a personal floatation device for babies. The device includes Velcro® strips on head support panels and on pant panels for adjustment purposes. The Velcro® strips are simply strips or patches and there is no suggestion to form a cavity or pocket with the Velcro® strips.

The Examiner opines that it would have been obvious to modify the fastener of Van Heusen to be included in the diaper swimsuit as taught by Lacoursiere to provide an adjustable swimsuit to secure a baby in various comfort positions which can be lengthened to accommodate a growing baby when engaging in water activities. To the contrary, such a modification would defeat or substantially diminish the purpose of the fastening device described in Van Heusen. More particularly, Van Heusen does not provide an adjustable-length fastening system, but instead provides a secure fastening system in lieu of buttons that can withstand wear and tear. As the Examiner will appreciate, it is not obvious to modify a primary reference in a manner that defeats or substantially diminishes its purpose and function. An obviousness rejection that requires such a modification to a primary reference is improper.

Since the fastening components in Lacoursiere are adjustable-length fastening components lacking any sort of cavity or pocket component, and the fastening components in Van Heusen include a pocket-type receiving component and are not adjustable in length, there is no suggestion to combine any aspect of the fastening components in Lacoursiere with the fastening components in Van Heusen. Furthermore, because the fastening components in Van Heusen lack the adjustable-length versatility of the fastening components in Lacoursiere, there is no suggestion to

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apply the fastening components of Van Heusen to the swimsuit of Lacoursiere. Additionally, even if the fastening components in Van Heusen were combined with the fastening components in Lacoursiere, the resulting combination would fail to disclose or suggest Applicants' claimed invention because the incorporation of the Van Heusen fastener into the Lacoursiere diaper swimsuit would lack the requisite loop material of Applicants' invention.

For at least the reasons given above, Applicants respectfully submit that the teachings of Van Heusen in view of Lacoursiere fail to disclose or suggest Applicants' claimed invention. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

Conclusion

Applicants believe that this case is now in condition for allowance. If the Examiner feels that any issues remain, then Applicants' undersigned attorney would like to discuss the case with the Examiner. The undersigned can be reached at (847) 490-1400.

Respectfully submitted,



Melanie L. Rauch
Registration No. 40,924

Pauley Petersen & Erickson
2800 West Higgins Road, Suite 365
Hoffman Estates, Illinois 60195
(847) 490-1400
FAX (847) 490-1403

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